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Before the
Federal Communications Commission
Washington, D.C. 20554

In the Matter of	)	
	)	
Processing Order for Applications Filed Pursuant to the Commission's New Local Broadcast Ownership Rules	)	FCC No. 99-240 (Public Notice)
	)	
Review of the Commission's Regulations Governing Television Broadcasting	)	MM Docket No. 91-221
	)	
Television Satellite Stations Review of Policy and Rules	)	MM Docket No. 87-8

To: The Commission

REPLY COMMENTS OF TRIBUNE BROADCASTING COMPANY

Tribune Broadcasting Company ("Tribune"), by its undersigned counsel, hereby submits these Reply Comments in response to the above-captioned public notice. Tribune's initial comments in response to the Public Notice urged the Commission to adopt a three-tiered processing priority among applications that was designed to minimize disruptions to previously established relationships in the marketplace. First, Tribune urged the Commission to process applications seeking approval of combinations of stations with pre-existing, previously non-attributable relationships that were either (i) already approved by the Commission or (ii) permitted under the old rules. To resolve ties among applications in this category, Tribune argued that the Commission should not use random selection, but instead should process applications based on the length of the pre-existing relationship between the stations, with the oldest such relationship processed first.

Second, Tribune proposed that the Commission process applications proposing combinations of stations that are commonly owned but separately operated under temporary waivers of the old rules or held in disposition trusts, provided the proposed station combination does not violate the Commission's new duopoly rule. Finally, the Commission should process applications proposing entirely new combinations. In these last two processing categories, Tribune did not oppose the use of random selection to resolve ties.

Tribune reiterates its support for a system of priorities among applications that accommodates legitimate, pre-existing business expectations. Several parties, including Paxson Communications Corporation and Sinclair Broadcast Group, asked the Commission to give priority to applications proposing combinations of stations currently in LMAs.[1] Tribune does not disagree with these proposals, provided that the priority is afforded as part of an overall category that recognizes applications proposing combinations of previously approved or otherwise non-attributable relationships that are now attributable under the new rules. Tribune submits that the reasonable expectations of parties with formerly non-attributable pre-existing relationships are entitled to as much if not more protection than any party to an LMA. As noted above, the processing methodology should first prioritize applications seeking approval of combinations between stations with pre-existing, previously non-attributable relationships that were either (i) expressly approved by the Commission or (ii) otherwise permitted under the old rules.

To the extent the Commission declines to afford priority to all applications proposing combinations of stations with previously non-attributable relationships (including but not limited

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[1] *See* Comments of Paxson Communications Corporation at 5; Comments of Sinclair Broadcast Group, Inc. at 3.

to LMAs), the Commission should at least afford processing priority to applications proposing combinations of stations with grandfathered, previously non-attributable relationships in a given market. In the LMA context, this priority would apply to applications proposing station combinations that would otherwise be entitled to five-year grandfathering protection. Because the Commission recognized that parties to these grandfathered relationships had legitimate expectations that should not be upset by the imposition of new rules, it should similarly afford processing priority to applications proposing combinations of these stations.

Tribune notes that the "first-to-contract" rule favored by CBS and Viacom similarly recognizes the need to afford some processing priority to parties with the oldest pre-existing, contractual relationships.[2] To the extent CBS has explained the proposal, however, it appears problematic in that it vests a party's processing rights on the timing of its "public announcement." If the Commission adopted the CBS/Viacom proposal, it would have to promulgate additional rules as to what constitutes a bona fide public announcement, and numerous factual disputes would undoubtedly arise pursuant to those rules, including the priority assigned to transactions publicly announced on the same date. CBS's proposal also replaces the "race to the courthouse" notion with a "race to announce." Because of the inherent difficulties CBS's proposal presents, Tribune does not support it.

Finally, Tribune opposes tie-breaking proposals designed to promote social goals such as station ownership "diversity."[3] These proposals, which appear to be both quite complex and

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[2]*See* Comments of CBS Corporation on "Tie-Breaker" Proposal at 8.

[3]*See* Comments of the Minority Media and Telecommunications Council; Comments of the Office of Communication Inc. of the United Church of Christ, Black Citizens for a Fair Media, (continued...)

constitutionally problematic (see Adarand Constructors, Inc. v. Pena, 515 U.S. 200 (1995), are simply not appropriate for consideration in this context.

Unless preferences of the sort advocated by Tribune are implemented, the Commission's new ownership rules will disrupt previously permissible combinations while implementing a Report and Order that relaxes ownership restrictions. Tribune's proposal provides a mechanism for avoiding such an unintended result.

Respectfully submitted,

TRIBUNE BROADCASTING COMPANY

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[3](...continued)
Center for Media Education, Washington Area Citizens Coalition in Viewer's Constitutional Rights.